

IN RE: PETITION FOR VARIANCE  
NW/S Baltimore National Pike,  
380' SW of Johnnycake Road  
(5602 Baltimore National Pike)  
1st Election District  
1st Councilmanic District  
  
Double T Enterprises, L.L.C.  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 95-330-A  
\*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 5602 Baltimore National Pike, located in the vicinity of West Edmondale in Catonsville. The Petition was filed by the owners of the property, Double T. Enterprises, L.L.C. by William Tan, Partner, and the Contract Lessee, American P.C.S., L.P. by Margaret C. Ruggieri, Esquire. The Petitioners seek relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 18 feet from a D.R. zone in lieu of the required 200 feet for a roof-mounted wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Sharon Ziglari and Greg Sarro with American Personal Communications (American P.C.S.), the Contract Lessee, Robert Jack and George E. Gavrelis with Daft-McCune-Walker, Inc., who prepared the site plan for this property, and Christine K. McSherry, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence proffered by Ms. McSherry revealed that the subject property consists of .32 acres, more or less, zoned B.M.-C.C.C. and is improved with a seven-story office building. The property is locat-

ORDER RECEIVED FOR FILING

Date

By

McKONNELL

ed on the north side of Baltimore National Pike near its intersection with Johnnycake Road. The Petitioners wish to install a roof-mounted wireless transmitting and receiving facility on top of the existing building. As a result of the close proximity of this property to D.R. 5.5 zoned land, the relief requested is necessary. Ms. McSherry noted that the adjacent D.R. 5.5 zoned land is actually used for commercial parking. Further testimony indicated that after an exhaustive search of the area, it became clear that the subject site was the only candidate on which to locate the antennae. The Petitioners introduced as Petitioner's Exhibit 2 a copy of the lease agreement for the subject property, as well as photographs of the site and findings that the proposed antennae are well within the safety guidelines imposed by the Federal Communications Commission (FCC).

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties

which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial injustice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting

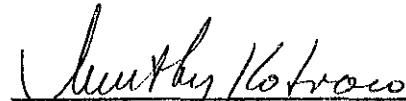
ORDER RECORDED & INDEXED  
5/13/95  
JEP

of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3<sup>rd</sup> day of May, 1995 that the Petition for Variance seeking relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 18 feet from a D.R. zone in lieu of the required 200 feet for a roof-mounted wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 3, 1995

(410) 887-4386

Christine K. McSherry, Esquire  
Whiteford, Taylor and Preston  
210 W. Pennsylvania Avenue, Suite 500  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
NW/S Baltimore National Pike, 380' SW of Johnnycake Road  
(5602 Baltimore National Pike)  
1st Election District - 1st Councilmanic District  
Double T Enterprises, L.L.C. - Petitioners  
Case No. 95-330-A

Dear Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. William Tan, Double T Enterprises, L.L.C.  
5602 Baltimore National Pike, Baltimore, Md. 21228

Ms. Sharon Ziglari and Mr. Greg Sarro  
American P.C.S., L.P., 6901 Rockledge Drive, Bethesda, Md. 20817

Messrs. George E. Gavrelis and Robert Jack  
Daft-McCune-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

People's Counsel; Case File





# Petition for Variance

95-330-A

## to the Zoning Commissioner of Baltimore County

for the property located at

5602 Baltimore National Pike  
Baltimore, MD 21228

which is presently zoned BM-CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 426.1B

To permit a setback of 18 feet from a D.R. zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq. for  
American PCS, L.P.

(Type or Print Name)

*Margaret C. Ruggieri*  
Signature

One Democracy Center  
6901 Rockledge Drive, Suite 600  
Address

Bethesda MD 20817  
City State Zipcode

Attorney for Petitioner:

G. Scott Barhight, Esq.

(Type or Print Name)

*G. Scott Barhight*  
Signature

c/o Whiteford, Taylor, Preston  
500 Court Towers, 210 W. Penn. Ave.

Towson MD 21204  
City State Zipcode  
(410) 832-2000

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Double T Enterprises, L.L.C.

(Type or Print Name) By: William Tan (Partner)

Signature

(Type or Print Name)

Signature

5602 Baltimore National Pike

Balto, MD 21228 (410) 747-7744  
Address Phone No

City State Zipcode  
Name, Address and phone number or representative to be contacted

G. Scott Barhight, Esq.

210 W. Pennsylvania Ave. 832-2000  
Towson, MD 21204  
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL \_\_\_\_\_ OTHER \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_ DATE \_\_\_\_\_

Printed with Soybean Ink  
on Recycled Paper

ORDER RECEIVED FOR FILING

Date 5/3/95

95-330-A

**Description**  
**To Accompany Petition for Variance**  
**0.32 Acre Parcel**  
**Baltimore National Pike**  
**First Election District, Baltimore County, Maryland**



Daft McCune Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

410 296 3333

Fax 296 4705

*A Team of Land Planners,*

*Landscape Architects,*

*Engineers, Surveyors &*

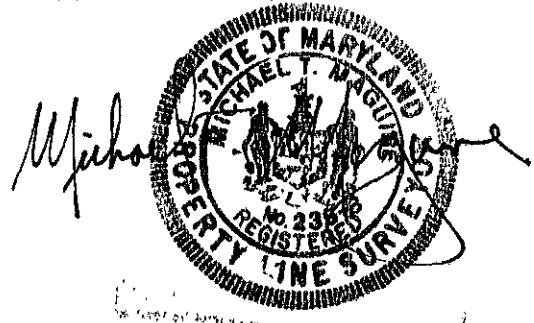
*Environmental Professionals*

Beginning for the same on the northwest side of Baltimore National Pike (150 feet wide) at the end of the following two courses and distances measured from the point formed by the intersection of the centerline of Baltimore National Pike with the centerline of Johnnycake Road (1) Southwesterly along said centerline of Baltimore National Pike 380 feet, more or less, thence (2) Northwesterly 75 feet, more or less, to the point of beginning, thence leaving said point of beginning and binding on the northwest side of Baltimore National Pike (1) South 72 degrees 18 minutes 10 seconds West 74.88 feet, thence leaving Baltimore National Pike and running the five following courses and distances, viz: (2) North 17 degrees 41 minutes 50 seconds West 181.47 feet, thence (3) South 79 degrees 41 minutes 00 seconds East 107.48 feet, thence (4) South 17 degrees 41 minutes 50 seconds East 84.99 feet, thence (5) South 72 degrees 18 minutes 10 seconds West 20.00 feet, and thence (6) South 17 degrees 41 minutes 50 seconds East 46.00 feet to the point of beginning; containing 0.32 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

February 28, 1995

Project No. 94123.23 (L94123.23)



WILLIAM J. HALL



**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
**Towson, Maryland**

95-330-H

District 1st Date of Posting 11/7/95  
Posted for: Variano  
Petitioner: Double T. Enterprises, H & A, P.C.S., Inc.  
Location of property: 5607 Balto Nat. Pk., NW/5  
Location of Signs: Facing roadway, on property being zoned  
Remarks: \_\_\_\_\_  
Posted by M. J. Testa Date of return: 11/14/95  
Signature  
Number of Signs: 1

MICROFILMED

## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-330-A

(Item 322)

5802 Baltimore National Pike

NW/8 Baltimore National Pike, 380' SW of Johnnycake Road

1st Election District

1st Councilmanic

Legal Owner(s):

Double T Enterprises,

LLC

Contract Purchaser:

American PCS, L.P.

Hearing: Thursday,

April 27, 1995 at 9:00

a.m. in Rm. 118, Old Courthouse.

Variance to permit a setback of 18 feet from a D.R. zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200 feet.

LAWRENCE E. SCHMIDT

Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.

4/26 April 6.

## CERTIFICATE OF PUBLICATION

TOWSON, MD., April 7, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on April 6, 1995.

THE JEFFERSONIAN,

*A. Hamilton*

LEGAL AD. - TOWSON

*Published*



Baltimore County  
Zoning Administration &  
Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt  
95-330-A

Account: R 001-6150

Number 327

Date 3-21-95

MARGARET RUGGIERI FOR AMERICAN PCS

C2C

C.U.

250

OSC

1 SIGN

35

TOTAL

285<sup>00</sup>

STU

RECEIVED

01ADLND175MICHRC  
BA COLL: 31AND3-21-95

\$285.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

TO: PUTUXENT PUBLISHING COMPANY  
April 6, 1995 Issue - Jeffersonian

Please forward billing to:

G. Scott Barhight, Esq.  
Whiteford Taylor Preston  
500 Court Towers  
210 W. Pennsylvania Avenue  
Towson, MD 21204  
832-2000

---

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-330-A (Item 322)  
5602 Baltimore National Pike  
NW/S Baltimore National Pike, 380' SW of Johnnycake Road  
1st Election District - 1st Councilmanic  
Legal Owner: Double T Enterprises, LLC  
Contract Purchaser: American PCS, L.P.  
HEARING: THURSDAY, APRIL 27, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit a setback of 18 feet from a D.R. zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200 feet.

LAWRENCE E. SCHMIDT  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

March 30, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
OR  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-330-A (Item 322)  
5602 Baltimore National Pike  
NW/S Baltimore National Pike, 380' SW of Johnnycake Road  
1st Election District - 1st Councilmanic  
Legal Owner: Double T Enterprises, LLC  
Contract Purchaser: American PCS, L.P.  
HEARING: THURSDAY, APRIL 27, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit a setback of 18 feet from a D.R. zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Double T Enterprises, LLC  
Margaret C. Ruggieri, Esq.  
G. Scott Barhight, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





**American Personal  
Communications**

**AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
April 27, 1995**

**TABLE OF CONTENTS**

1. Lease Agreement with Double T Enterprises, LLC
2. Photographs of 5602 Baltimore National Pike
3. Pictures of Antennas
4. Specification Sheets for Antennas
5. Picture of Equipment Cabinets
6. FCC License
7. FCC Adopts ANSI EMF Regulations
8. Radio Frequency Statement - Jules Cohen
9. FCC Statement on PCS - Creating Significant Benefits  
for Consumers and Business
10. FCC's Chairman, Reed Hundt, Speech Excerpts

**PETITIONER'S  
EXHIBIT 2**

**MICROFILMED**

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

April 20, 1995

G. Scott Barhight, Esquire  
Whiteford, Taylor and Preston  
500 Court Towers  
210 W. Pennsylvania Ave.  
Towson, Maryland 21204

RE: Item No.: 322  
Case No.: 95-330-A  
Petitioner: Double T Enterprises

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on March 21, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in cursive script that reads "W. Carl Richards, Jr.".

W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Director  
Office of Planning and Zoning

DATE: April 4, 1995

SUBJECT: 5602 Baltimore National Pike

INFORMATION:

Item Number: 322  
Petitioner: Double T Enterprises, L.L.C.  
Property Size: \_\_\_\_\_  
Zoning: BM-CCC  
Requested Action: Variance  
Hearing Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

SUMMARY OF RECOMMENDATIONS:

The applicant requests a Variance to permit a setback of 18' from a DR zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200'.

While staff does not oppose the applicant's request, it is clear that the petitioner will need to satisfy the burden imposed upon them to prove practical difficulty and/or unreasonable hardship to justify the granting of the subject Variance.

Prepared by: Jeffrey W. Long

Division Chief: Carol L. Kerns

PK/JL



BALTIMORE COUNTY, MARYLAND  
I N T E R O F F I C E   C O R R E S P O N D E N C E

TO: Arnold Jablon, Director      DATE: April 10, 1995  
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief  
Developers Engineering Section

RE: Zoning Advisory Committee Meeting  
for April 10, 1995  
Items 322, 323, 324, 325, 326, and 327

The Developers Engineering Section has reviewed  
the subject zoning item and we have no comments.

RWB:sw

Baltimore County Government  
Fire Department



700 East Joppa Road Suite 901  
Towson, MD 21286-5500

(410) 887-4500

DATE: 04/04/95

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF APR. 3, 1995.

Item No.: SEE BELOW

Zoning Agenda: SEE BELOW

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 321, 322, 323, 324, 325  
326 & 327.

RECEIVED  
APR 6 1995  
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File





**Maryland Department of Transportation  
State Highway Administration**

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

3-31-95

Ms. Joyce Watson  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County

Item No.: +322 (JRA)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*Bob Small*

*for*

Ronald Burns, Chief  
Engineering Access Permits  
Division

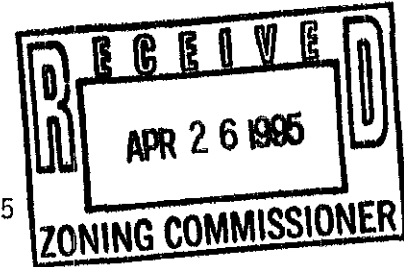
BS/

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717  
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE



TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

April 26, 1995

FROM: J. Lawrence Pilson *JLP*  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #322  
5602 Baltimore National Pike  
Zoning Advisory Committee Meeting of April 3, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Air Quality

The site must comply with ANSI Standard C95.1-1982 at all times, including during reasonable roof access for maintenance/custodial personnel. We recommend that Caution/Warning signs be placed at all roof access doors.

JLP:SR:sp

BALTONAT/DEPRM/TXTSBP

RE: PETITION FOR VARIANCE

5602 Baltimore National Pike, NW/S Balti-  
more Nat'l Pike, 380' SW of Johnnycake  
Rd, 1st Election Dist., 1st Councilmanic

Double T Enterprises, LLC  
Petitioner

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 95-330-A

\* \* \* \* \*

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10<sup>th</sup> day of April, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, 210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN

RECEIVED  
APR 11 1995

ZADM

**PETITION PROBLEMS  
AGENDA OF APRIL 3, 1995**

**#321 ---JRF**

1. Property is in critical area (folder/petition not marked as such).

**#322 --- JRA**

1. Review information not completed on bottom of petition form.

**#323 --- MJK**

1. No attorney (see memo to hearing officer from Mitch).
2. No undersized lot papers in the folder.

**#327 --- JJS**

1. Wording on petition has wrong case number (should be 94-13-SPHA, not 94-135-SPHA; case number is correct on the plat).



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

March 19, 1997

Mr. Kevin L. Mason  
Entel Technologies, Inc.  
1110 North Glebe Road, Suite 850  
Arlington, VA 22201

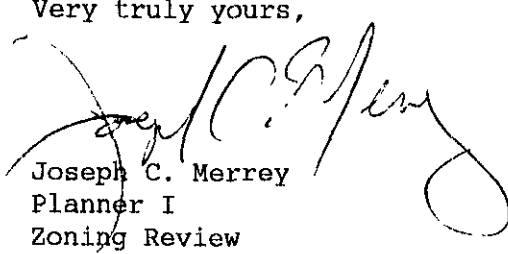
RE: Spirit and Intent  
5602 Baltimore National Pike  
1st Election District

Dear Mr. Mason:

Upon review of your correspondence dated March 6, 1997 regarding the above referenced matter, please be advised that it is the opinion of this office that your request to upgrade and expand the subject facility with: Six (6) panel antennas measuring 48 inches in height x 6.1 inches in width x 2.8 inches in depth; and, three (3) equipment cabinets measuring approximately 6.0 inches in height x 30 inches in width x 30 inches, is within the spirit and intent of zoning case #95-330-A.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

  
Joseph C. Merrey  
Planner I  
Zoning Review

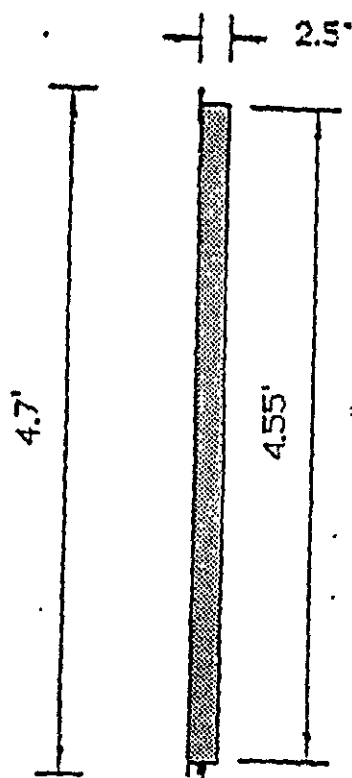
JCM:rye

Enclosure

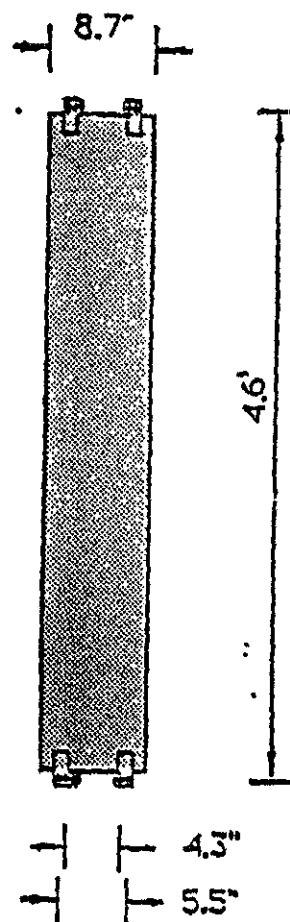


# PANEL ANTENNA

SIDE VIEW



REAR VIEW



TOP VIEW



$F_1$

$F_2$

WIND LOAD (at 100 mph)

|           |      |
|-----------|------|
| $F_1$ (N) | 48.5 |
| $F_2$ (N) | 14   |

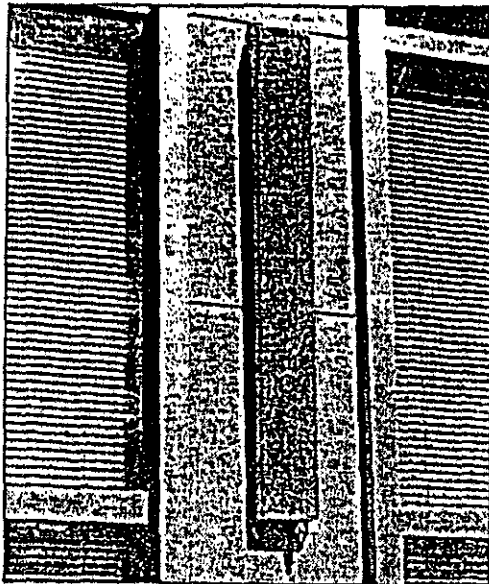
PLANCHE

48010 60° 16.6 dBd Panel



## Model 58000 / 58010 92°, 15 dBd PCS Panel

(a member of the DAPA QuintStar™ family of PCS panels)

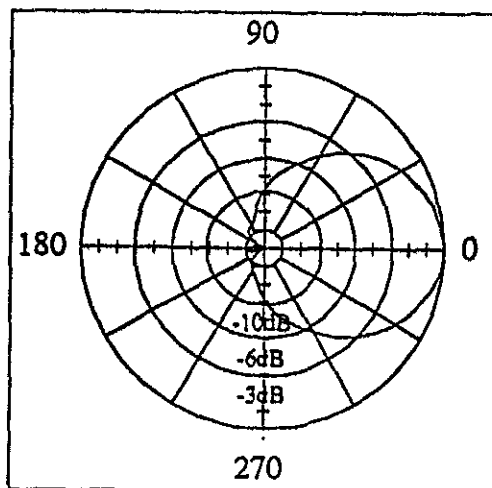


### GENERAL CHARACTERISTICS

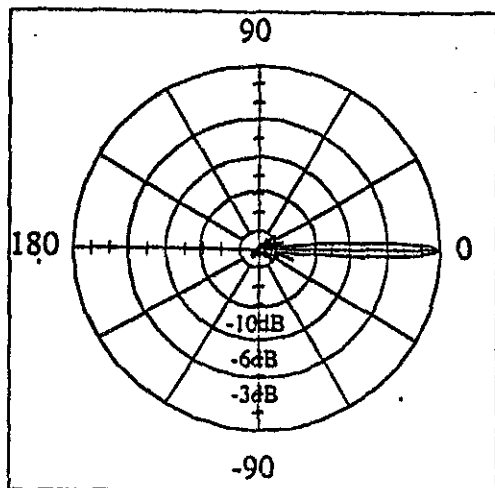
|                 |                 |
|-----------------|-----------------|
| Frequency Range | 1710 - 1990 MHz |
| Impedance       | 50 $\Omega$     |
| VSWR            | < 1.5:1         |
| Polarization    | Vertical        |
| Rated Power     | 500 W           |

### ELECTRICAL CHARACTERISTICS

|                        |         |                            |
|------------------------|---------|----------------------------|
| Beamwidth:             | H-plane | 92° $\pm$ 3° (at -3 dB)    |
|                        | E-plane | 7° $\pm$ 1° (at -3 dB)     |
| Maximum / Minimum Gain |         | 15 dBd / 14 dBd            |
| Electrical Downtilt    |         | 0° (available -1° to -15°) |
| Side Lobes             |         | < -15 dB                   |
| Front-to-Back Ratio    |         | < -25 dB                   |



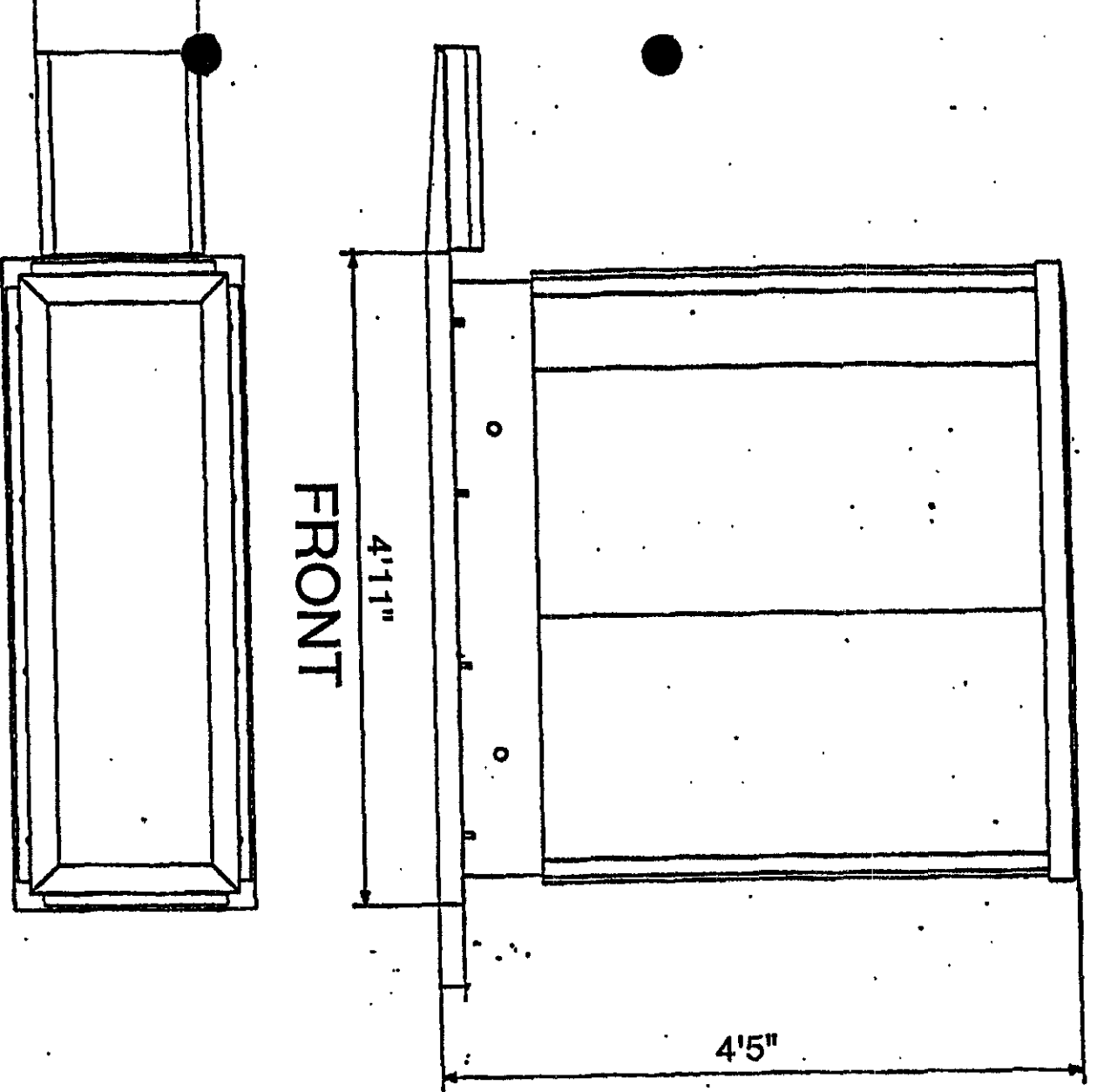
H-plane



E-plane

### MECHANICAL CHARACTERISTICS

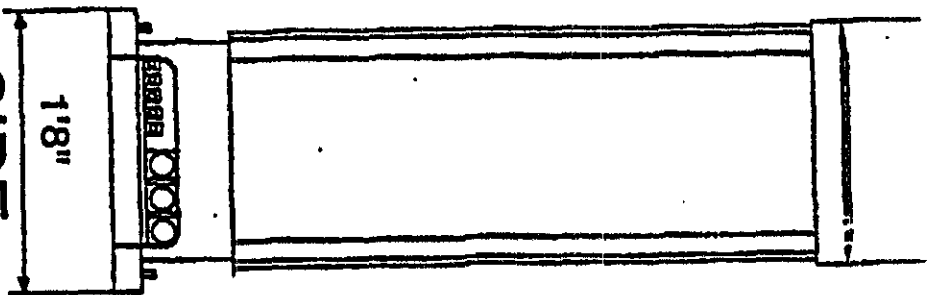
|                            |  |
|----------------------------|--|
| Height x Width x Depth     | 53.3" x 6.3" x 2.7"<br>(1353 x 159 x 68 mm)                        |
| Weight                     | 11 lbs (5 kg)  |
| Wind Survival Rating       | 125 mph (200 km/h)   |
| Wind Load (at 100 mph)     | 363 N (frontal F <sub>1</sub> )<br>160 N (lateral F <sub>2</sub> ) |
| Flat Plate Equivalent Area | 2.31 ft <sup>2</sup> (0.22 m <sup>2</sup> )                        |
| Connector Types            | Type N, or 7/16 DIN  |
| Antenna Material           | Aluminum / ABS   |



FRONT

4'11"

4'5"



SIDE

1'8"

TOP

EQUIPMENT CABINET



## 1.2 OUTDOOR MINIBTS

### 1.2.1 Cabinet Dimensions

The cabinets dimensions are (W x H x D): 1.4 x 1.35 x 0.5 m<sup>3</sup>

The Outdoor MiniBTS consists of a base cabinet which may be used as a single cabinet or connected to one expansion cabinet. The dimensions of the cabinet are:

|         |        |        |
|---------|--------|--------|
| Height: | 1.35 m | (4'5)  |
| Width:  | 1.5 m  | (4'11) |
| Depth:  | 0.5 m  | (1'8)  |

The cabinets are provided with a 200mm (8") high plinth which holds the batteries. The plinth can be buried in case of road side installation.

### 1.2.2 Weight

The following table give the weight for typical outdoor MiniBTS configurations (batteries weight required for a 2 hours back up time for all configurations):

(a MiniBTS configuration is typically shipped fully equipped)

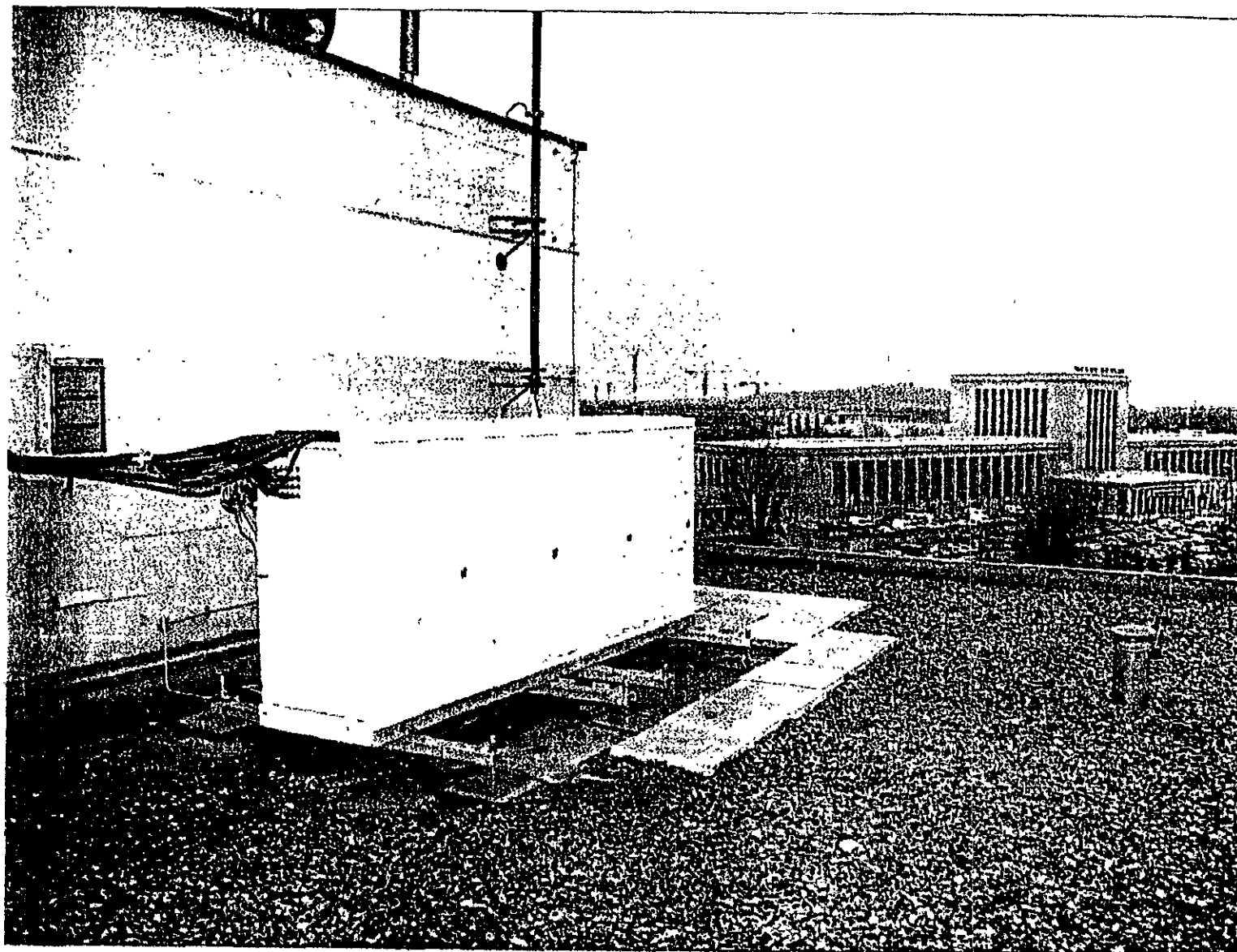
| MiniBTS outdoor                    | Without batteries            | With batteries                |
|------------------------------------|------------------------------|-------------------------------|
| BTS 1 TRX                          | 357 kg/787 lb.               | 445 kg/981 lb.                |
| BTS 2 TRX                          | 375 kg/827 lb.               | 463 kg/1021 lb.               |
| BTS 3 TRX                          | 392 kg/864 lb.               | 480 kg/1058 lb.               |
| BTS 4 TRX (Only Expansion Cabinet) | Expans. cab.: 398 kg/877 lb. | Expans. cab.: 486 kg/1071 lb. |

The floor loading of a fully equipped cabinet does not exceed 7 kN/m<sup>2</sup> (Uniform Distributed Load (UDL) based on the footprint of 1500 mm x 500 mm).

It is recommended that if installed in an indoor location, the site floor should be able to handle an average floor load of 600 daN/m<sup>2</sup>.

### 1.2.3 Clearance

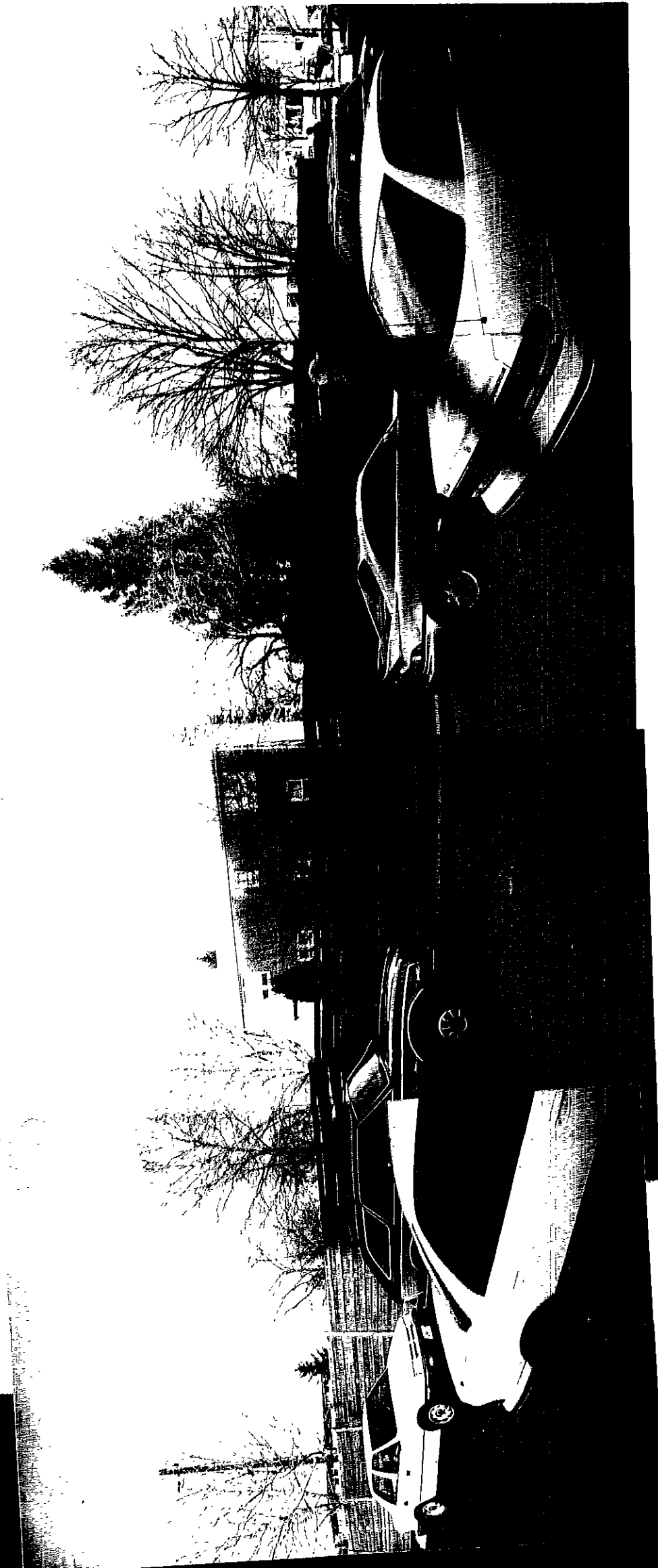
For the MiniBTS the operational clearance is 1.5 m/5' on the front side and 300 mm/11.8" on the back side. As all external connexions are from a side compartment located on the left of the cabinet, a 1m/3' clearance is also required on the left side of the cabinet. The spacing required at the top of the cabinet (to the ceiling) need be no greater than 500 mm. -

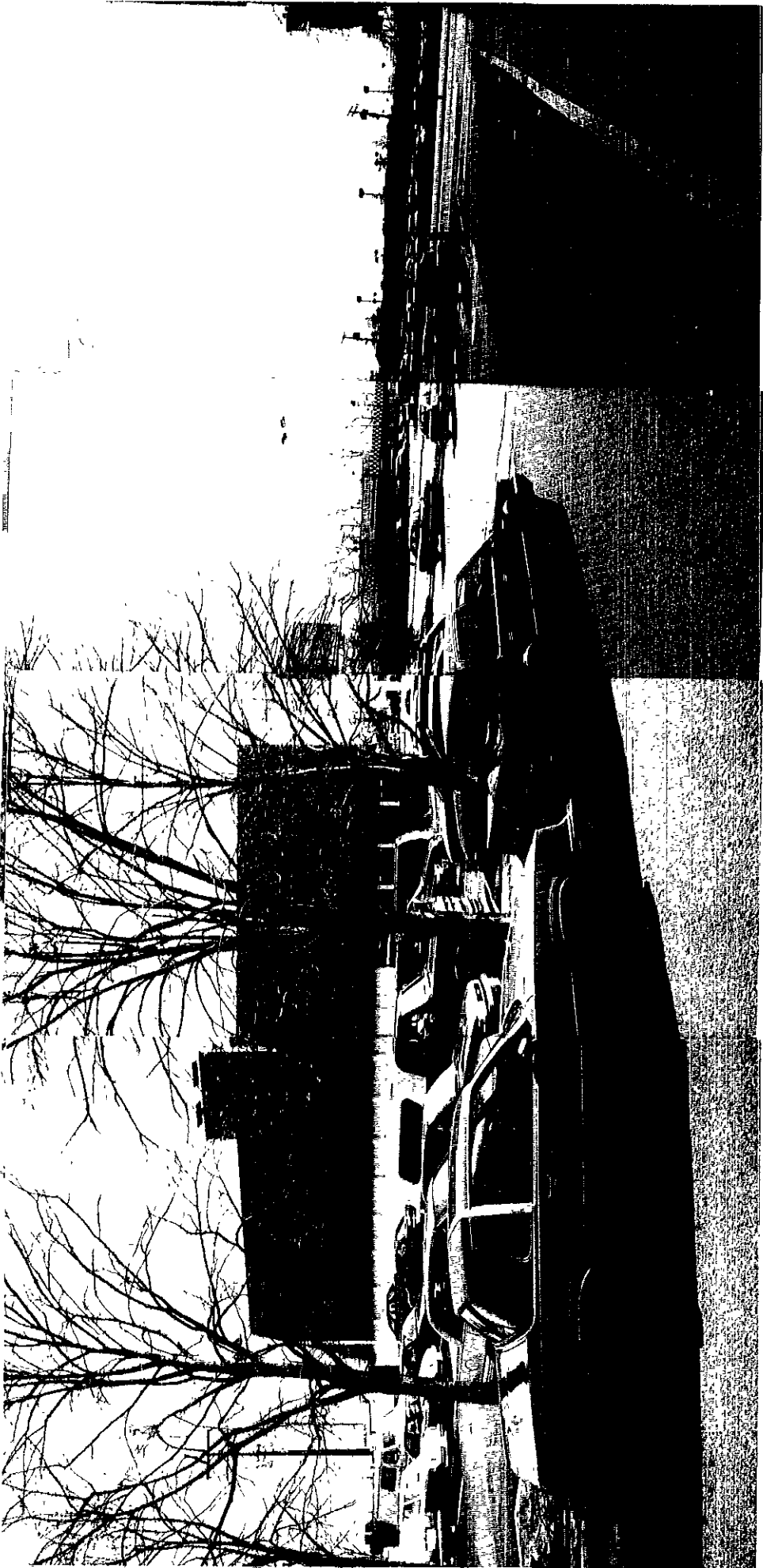


**EQUIPMENT CABINET**

WILKINSON











PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Christine K. Mosher  
Whiteford, Taylor & Preston

210 W. Pennsylvania Ave.  
Towson, MD 21204

George E. Gervelis

DMV, 200 E. Penn Ave

Christi

Shawn ZIGLARI

American Personal Communications

Greg Sappo

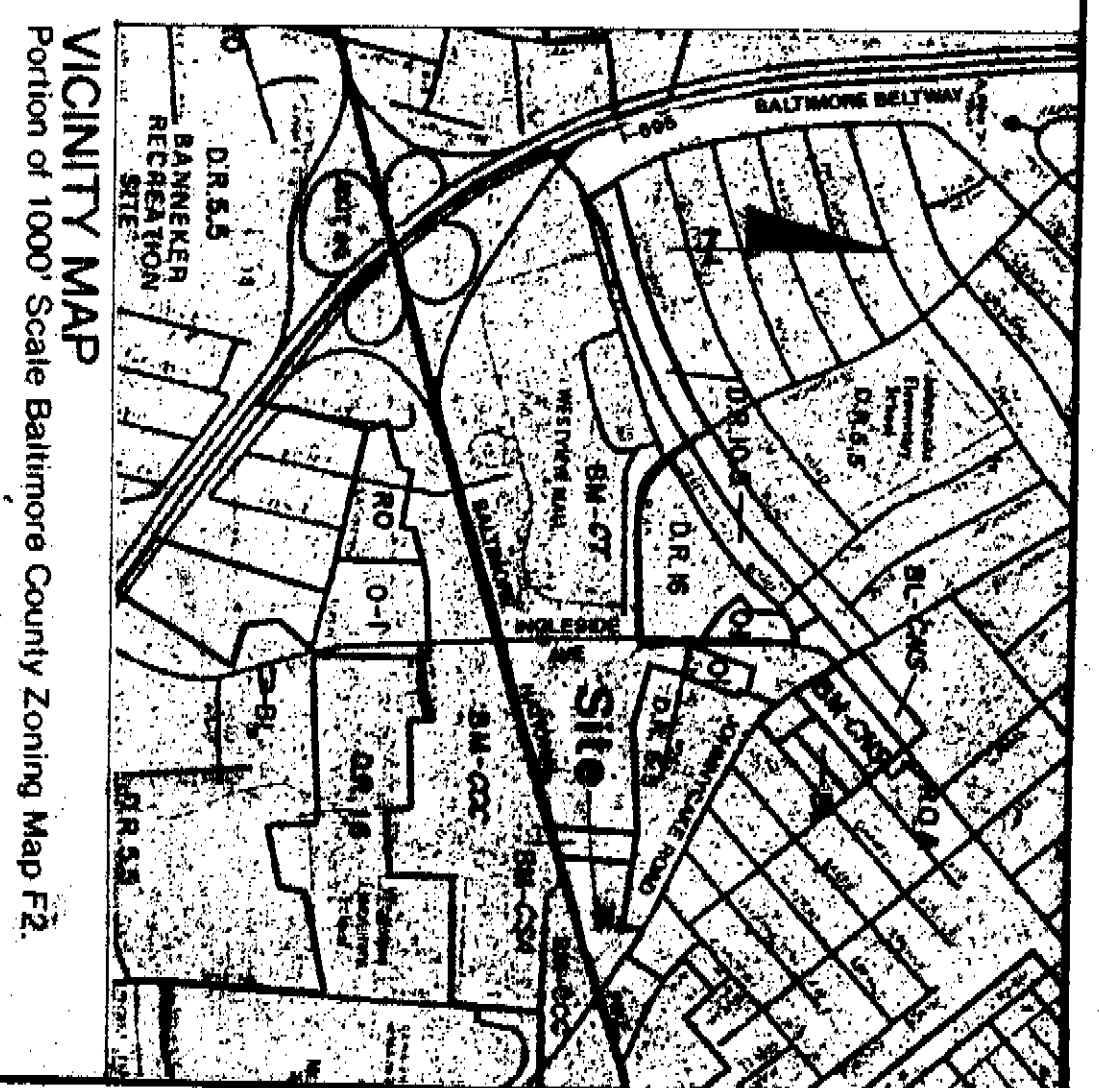
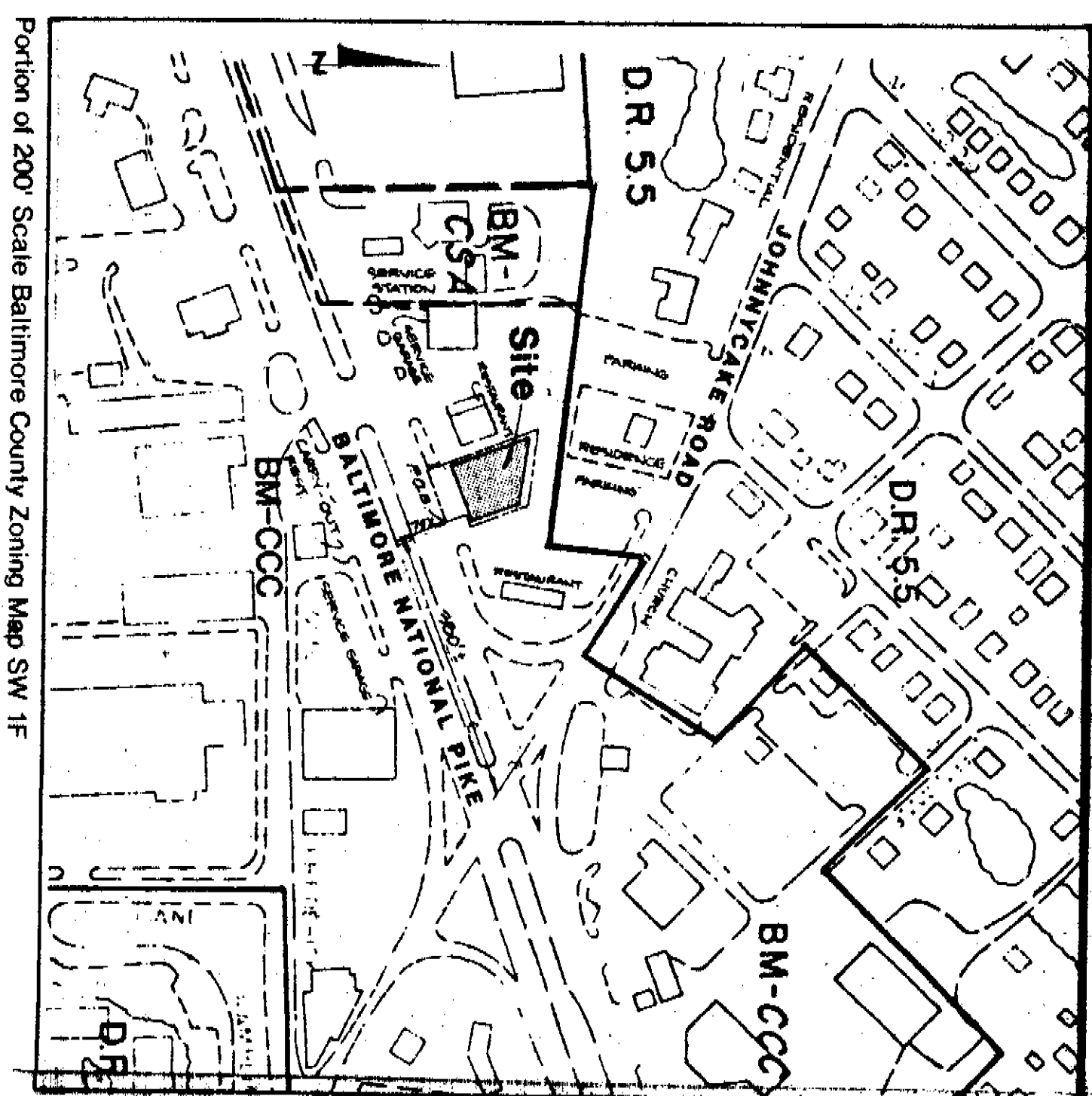
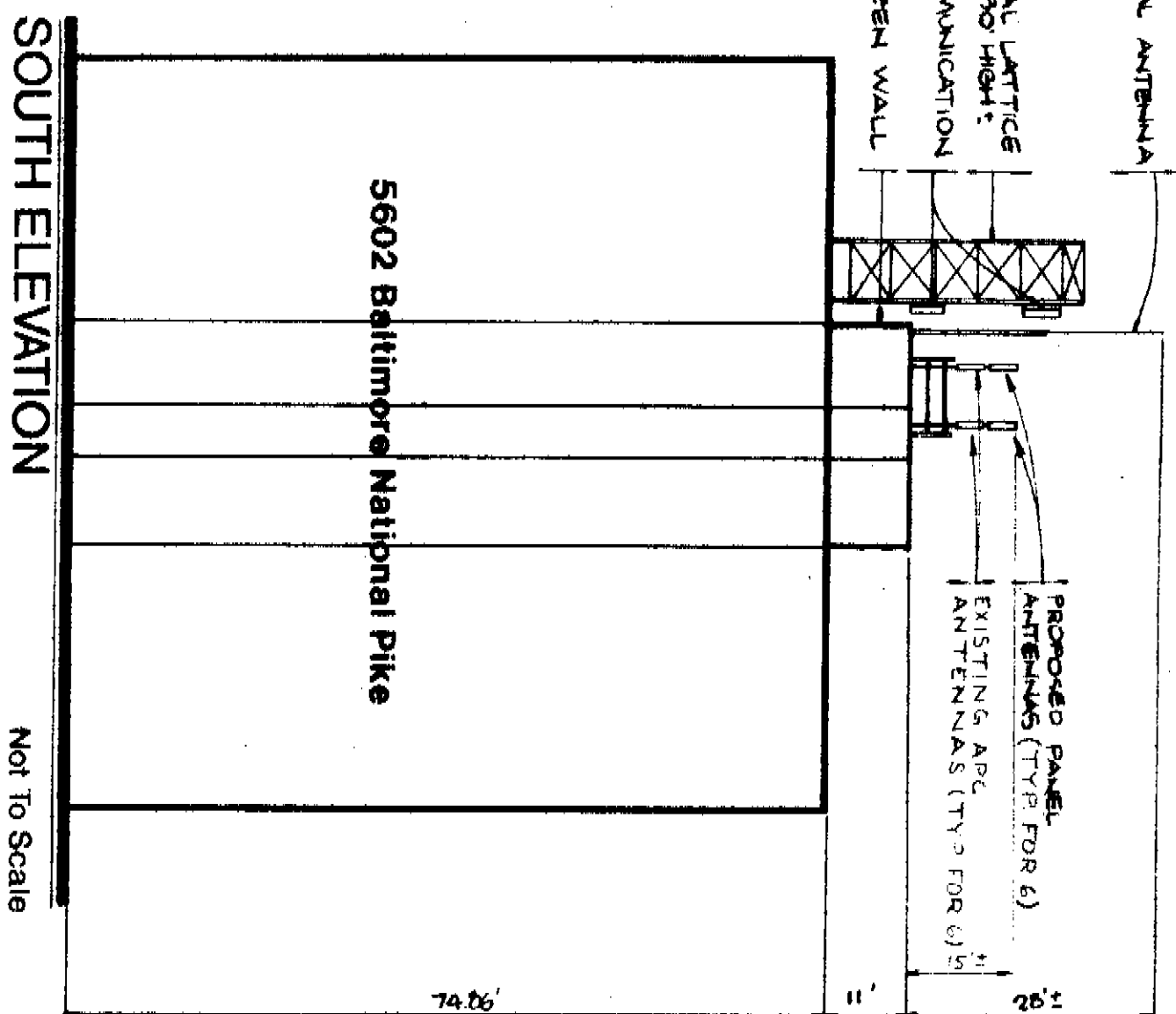
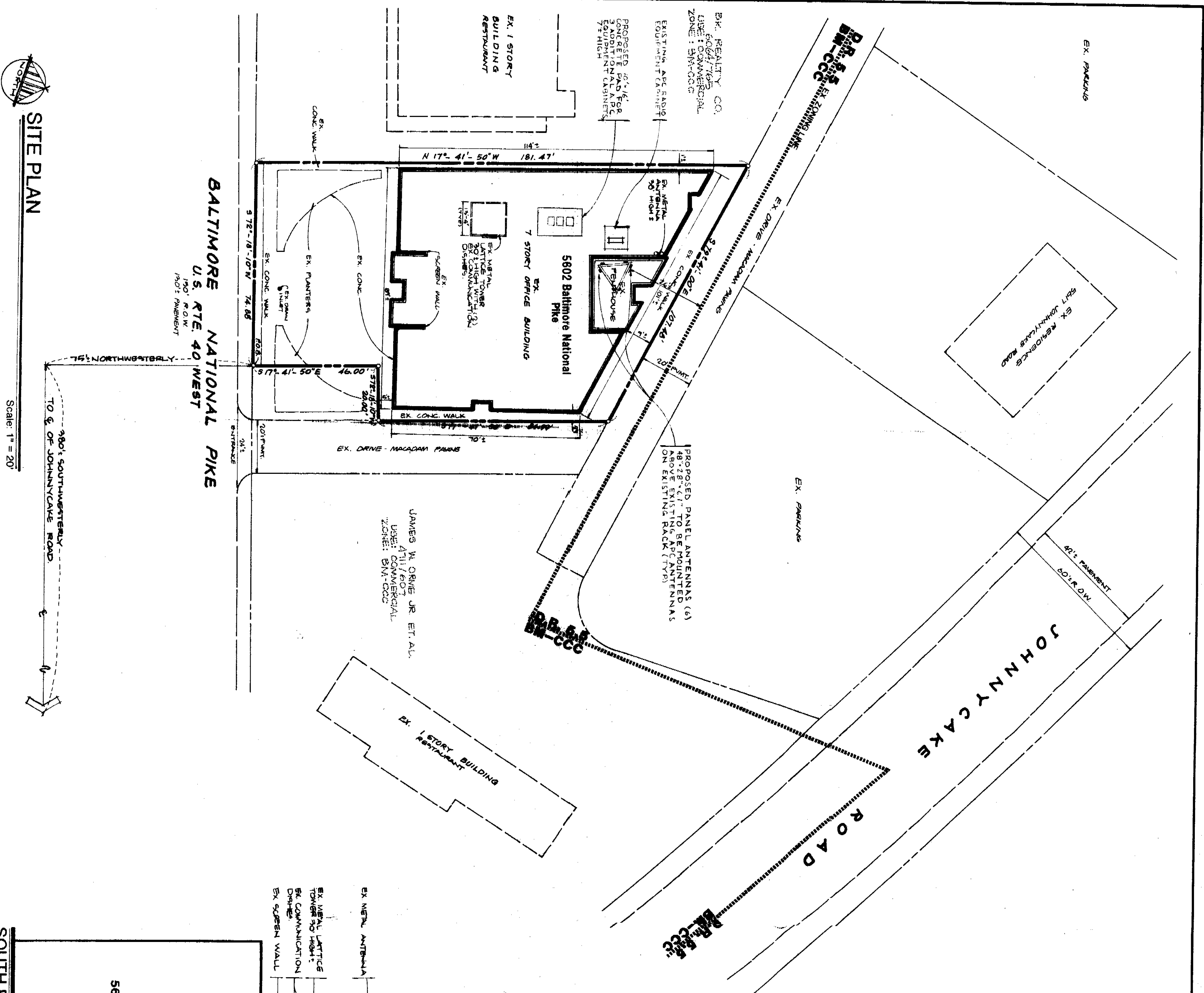
6901 Rockledge Drive

ROBERT JACK

Bethesda

DMV, Inc.

200 E. PENN. AVE.



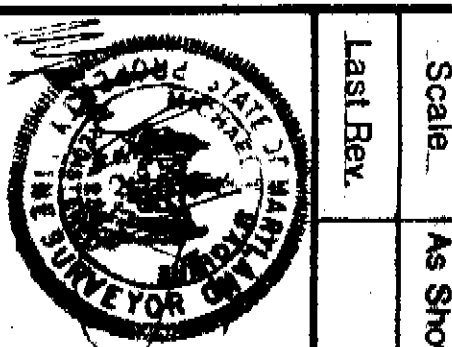
**DWT**  
Dagb McCombs Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals  
200 E. Rembrandt Avenue  
Tucson, Arizona 85705  
(602) 296-3333  
Fax 296-4705


**NOTES**

1. Current owner and street address:  
Douglas E. Thompson, LLC  
10000 Morris Watson Place  
Suite 400  
Baltimore, MD 21226
2. Contract Issues:  
American PCS, L.P.  
One Democracy Center  
6801 Rockledge Drive, Suite 600  
Baltimore, MD 20817
3. Site area:  
32 A-2
4. Existing uses:  
Office Building
5. Street Address:  
5802 Baltimore National Pike  
Baltimore, MD 21106
6. Site date:  
May 19, 1992, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 1993  
and 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634,

**Requested Zoning Action**

Special Exception pursuant to Section 23.3.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-CCC Zone

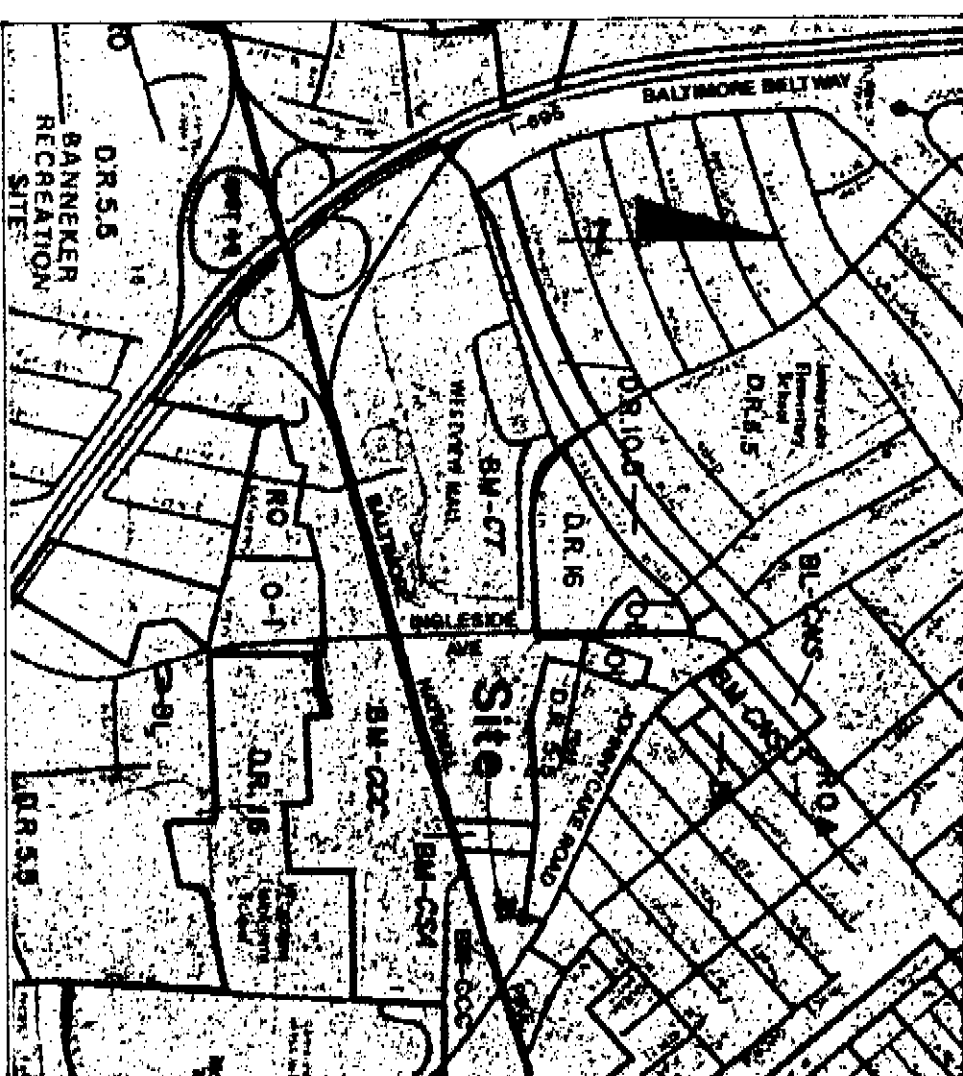
[illegible]

 **American Personal Communications**  
Plan to Accompany Petition for Variance  
**West Edmondale Site**  
Electron 100-1-1

**BACC 29**

Baltimore County, Maryland





**DMA**  
Dale McGraw Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals

200 E. Pennsylvania Avenue  
Towson, Maryland 21286  
(410) 206-3333  
Fax: 206-6705

95-330-A

- EXHIBIT 1  
MAR 20 1999  
DAFT-MCCUNE-WALK

DAFT-MCCUNE-WALKER, INC.

**MICROFILMED**









IN RE: PETITION FOR VARIANCE  
NW/S Baltimore National Pike,  
380' SW of Johnnycake Road  
(5602 Baltimore National Pike)  
1st Election District  
1st Councilmanic District  
Double T Enterprises, L.L.C.  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 95-330-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 5602 Baltimore National Pike, located in the vicinity of West Edmondale in Catonsville. The Petition was filed by the owners of the property, Double T Enterprises, L.L.C. by William Tan, Partner, and the Contract Lessee, American P.C.S., L.P. by Margaret C. Ruggieri, Esquire. The Petitioners seek relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 18 feet from a D.R. zone in lieu of the required 200 feet for a roof-mounted wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Sharon Zigleri and Greg Sarro with American Personal Communications (American P.C.S.), the Contract Lessee, Robert Jack and George E. Gavrelis with Daft-McCune-Walker, Inc., who prepared the site plan for this property, and Christine K. McSherry, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence proffered by Ms. McSherry revealed that the subject property consists of .32 acres, more or less, zoned B.M.-C.C.C. and is improved with a seven-story office building. The property is located

on the north side of Baltimore National Pike near its intersection with Johnnycake Road. The Petitioners wish to install a roof-mounted wireless transmitting and receiving facility on top of the existing building. As a result of the close proximity of this property to D.R. 5.5 zoned land, the relief requested is necessary. Ms. McSherry noted that the adjacent D.R. 5.5 zoned land is actually used for commercial parking. Further testimony indicated that after an exhaustive search of the area, it became clear that the subject site was the only candidate on which to locate the antennae. The Petitioners introduced as Petitioner's Exhibit 2 a copy of the lease agreement for the subject property, as well as photographs of the site and findings that the proposed antennae are well within the safety guidelines imposed by the Federal Communications Commission (FCC).

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties

which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial injustice to applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting

of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3<sup>rd</sup> day of May, 1995 that the Petition for Variance seeking relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 18 feet from a D.R. zone in lieu of the required 200 feet for a roof-mounted wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 3, 1995

(410) 887-4386

Christine K. McSherry, Esquire  
Whiteford, Taylor and Preston  
210 W. Pennsylvania Avenue, Suite 500  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
NW/S Baltimore National Pike, 380' SW of Johnnycake Road  
(5602 Baltimore National Pike)  
1st Election District - 1st Councilmanic District  
Double T Enterprises, L.L.C. - Petitioners  
Case No. 95-330-A

Dear Ms. McSherry:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

cc: Mr. William Tan, Double T Enterprises, L.L.C.  
5602 Baltimore National Pike, Baltimore, Md. 21228

Ms. Sharon Zigleri and Mr. Greg Sarro  
American P.C.S., L.P., 6901 Rockledge Drive, Bethesda, Md. 20817

Messrs. George E. Gavrelis and Robert Jack  
Daft-McCune-Walker, Inc., 200 E. Pennsylvania Ave., Towson, Md. 21286

People's Counsel; Case File



Petition for Variance  
to the Zoning Commissioner of Baltimore County  
for the property located at 5602 Baltimore National Pike  
Baltimore, MD 21228  
which is presently zoned BM-CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 426.1.B To permit a setback of 18 feet from a D.R. zone for a roof-mounted wireless transmitting and receiving facility in lieu of the required 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty.)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:  
Margaret C. Ruggieri, Esq. for  
American P.C.S., L.P.

*Margaret C. Ruggieri*  
One Democracy Center  
6901 Rockledge Drive, Suite 600  
Bethesda, MD 20817

Attorney for Petitioner:  
G. Scott Barhight, Esq.

*G. Scott Barhight*  
c/o Whiteford, Taylor, Preston  
500 Court Towers, 210 W. Penn. Ave.  
Towson, MD 21204  
(410) 832-2000

Legal Owner(s):  
Double T Enterprises, L.L.C.

*William Tan*  
By: William Tan (Partner)  
Signature

Signature

5602 Baltimore National Pike  
Address Phone No.  
Balto, MD 21228 (410) 743-7744

City, Address and phone number or representative to be contacted  
G. Scott Barhight, Esq.  
210 W. Pennsylvania Ave. 832-2000  
Baltimore, MD 21204

Signature  
OFFICIAL USE ONLY

ESTIMATED LENGTH OF HEARING: \_\_\_\_\_  
Date: \_\_\_\_\_

See following date: \_\_\_\_\_  
All: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_

Description  
To Accompany Petition for Variance  
0.32 Acre Parcel  
Baltimore National Pike  
First Election District, Baltimore County, Maryland

DMW

Daft-McCune-Walker, Inc.  
200 East Pennsylvania Avenue  
Towson, Maryland 21206  
410-286-1111  
Fax: 286-4705

A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals

Beginning for the same on the northwest side of Baltimore National Pike (150 feet wide) at the end of the following two courses and distances measured from the point formed by the intersection of the centerline of Baltimore National Pike with the centerline of Johnnycake Road (1) Southwesterly along said centerline of Baltimore National Pike 380 feet, more or less, thence (2) Northwesterly 75 feet, more or less, to the point of beginning, thence leaving said point of beginning and binding on the northwest side of Baltimore National Pike (1) South 72 degrees 18 minutes 10 seconds West 74.88 feet, thence leaving Baltimore National Pike and running the five following courses and distances, viz: (2) North 17 degrees 41 minutes 50 seconds West 181.47 feet, thence (3) South 79 degrees 41 minutes 00 seconds East 107.48 feet, thence (4) South 17 degrees 41 minutes 50 seconds East 84.99 feet, thence (5) South 72 degrees 18 minutes 10 seconds West 20.00 feet, and thence (6) South 17 degrees 41 minutes 50 seconds East 46.00 feet to the point of beginning; containing 0.32 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.  
February 28, 1995  
Project No. 94123.23 (L94123.23)



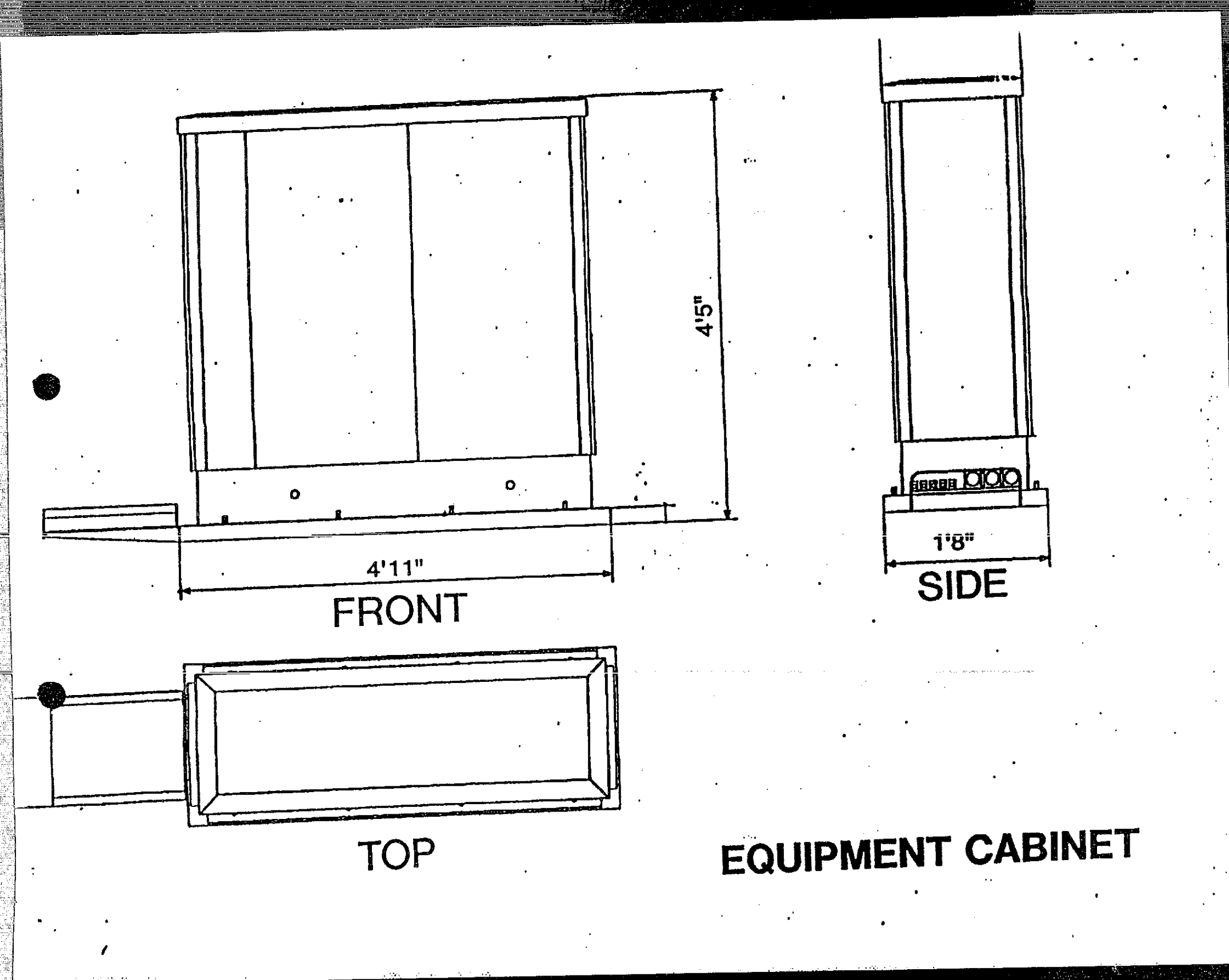












OCT 31 '94 04:10 NORTHERN TELECOM  
SEP 15 '94 11:04 NTI

**nt** northern telecom

**1.2 OUTDOOR MINIBTS**

**1.2.1 Cabinet Dimensions**  
The cabinet dimensions are (W x H x D): 1.4 x 1.35 x 0.5 m<sup>3</sup>  
The Outdoor MiniBTS consists of a base cabinet which may be used as a single cabinet or connected to one expansion cabinet. The dimensions of the cabinet are:  
Height: 1.35 m (4'5")  
Width: 1.5 m (4'11")  
Depth: 0.5 m (1'8")

The cabinets are provided with a 200mm (8") high plinth which holds the batteries. The plinth can be buried in case of road side installation.

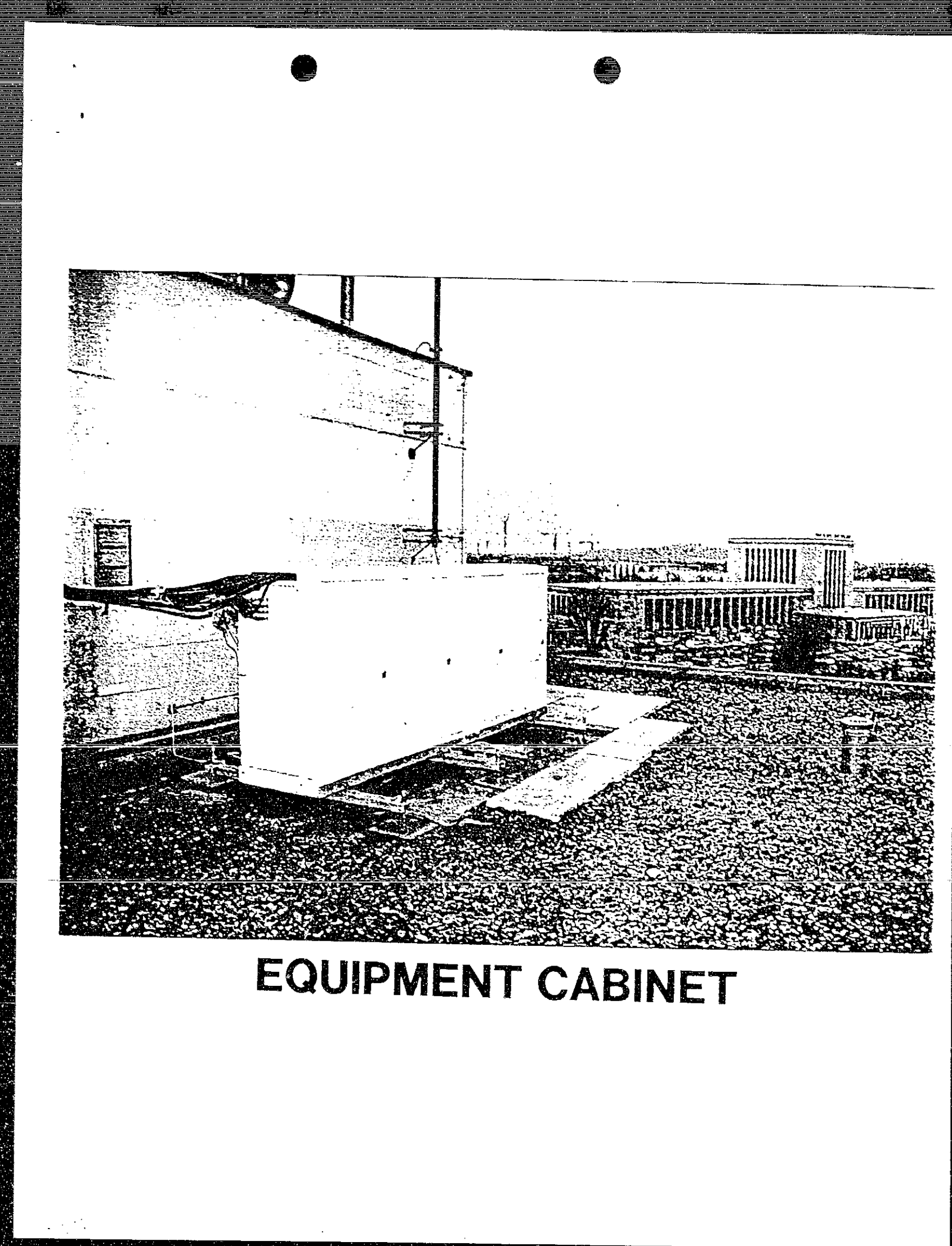
**1.2.2 Weight**  
The following table give the weight for typical outdoor MiniBTS configurations (batteries weight required for a 2 hours back up time for all configurations):  
(a MiniBTS configuration is typically shipped fully equipped)

| MiniBTS outdoor                    | Without batteries            | With batteries                |
|------------------------------------|------------------------------|-------------------------------|
| BTS 1 TRX                          | 357 kg/787 lb.               | 445 kg/981 lb.                |
| BTS 2 TRX                          | 375 kg/827 lb.               | 463 kg/1021 lb.               |
| BTS 3 TRX                          | 392 kg/864 lb.               | 480 kg/1058 lb.               |
| BTS 4 TRX (Only Expansion Cabinet) | Expans. cab.: 398 kg/877 lb. | Expans. cab.: 486 kg/1071 lb. |

The floor loading of a fully equipped cabinet does not exceed 7 kN/m<sup>2</sup> (Uniform Distributed Load (UDL) based on the footprint of 1500 mm x 500 mm).  
It is recommended that if installed in an indoor location, the site floor should be able to handle an average floor load of 600 daN/m<sup>2</sup>.

**1.2.3 Clearances**  
For the MiniBTS the operational clearance is 1.5 m/5' on the front side and 300 mm/11.8" on the back side. As all external connections are from a side compartment located on the left of the cabinet, a 1m/3' clearance is also required on the left side of the cabinet. The spacing required at the top of the cabinet (to the ceiling) need be no greater than 500 mm.

This document is the property of Northern Telecom. It may not be disclosed to a third party without prior written permission.  
BTS Product Information Page: 3



**American Personal Communications**

AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
April 27, 1995

**TABLE OF CONTENTS**

1. Lease Agreement with Double T Enterprises, LLC
2. Photographs of 5602 Baltimore National Pike
3. Pictures of Antennas
4. Specification Sheets for Antennas
5. Picture of Equipment Cabinets
6. FCC License
7. FCC Adopts ANSI EMF Regulations
8. Radio Frequency Statement - Jules Cohen
9. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
10. FCC's Chairman, Reed Hundt, Speech Excerpts

**PETITIONER'S EXHIBIT 2**

2212 Old Court Road, Baltimore, MD 21208-3432 (410) 825-4220 Fax: (410) 821-8630  
One Democracy Center, 6901 Rockledge Drive, Suite 600, Bethesda, MD 20817 (301) 214-9200 Fax: (301) 214-9490  
1-800-TALK-APC





